

70

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

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APR 24 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re

DOCKET FILE COPY ORIGINAL

Amendment of 47 C.F.R. §73.202(b),) MM Docket No. _____
FM Table of Allotments) RM- _____
(Glen Arbor, Michigan))

TO: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING TO DELETE FM CHANNEL

WKJF Radio, Inc., licensee of FM Broadcast Station WKJF-FM, Channel 225C, Cadillac, Michigan ("WKJF" or "Petitioner"), hereby respectfully submits this Petition for Rulemaking to delete the allocation of Channel 227A at Glen Arbor, Michigan. Thus, WKJF urges that the following change be made in the FM Table of Allotments, 47 C.F.R. §73.202(b): by its attorney, hereby respectfully submits this Petition for Rulemaking and respectfully requests the Commission to amend its FM Table of Allotments, 47 C.F.R. §73.202(b), in the following respect:

Community	Present	Proposed
Glen Arbor, Michigan	227A, 238C2, 251C2	238C2, 251C2

In support whereof, the following is shown:

No. of Copies rec'd 014
List ABCDE

MMB

Preliminary Statement

1. The Commission allocated Channel 227A to Glen Arbor in MM Docket No. 97-41, 12 FCC Rcd 5939 (released May 9, 1997), in response to a petition filed December 17, 1996 by Arborland Broadcasting Company (Arborland)¹. In allocating Channel 227A to Glen Arbor, the Commission imposed a site restriction 7.9 kilometers (4.9 miles) south of the community.

2. Arborland's "Petition for Rulemaking" (RM-8985) and March 24, 1997 "Comments" (appended hereto as Exhibit A) do not reveal anything about the nature of the area south of Glen Arbor containing "theoretical" fully-spaced sites².

Factual Statement

3. As Glen Arbor applicant George S. Flinn, Jr. (File No. BPH-970724M4) found out, much of the area in the Glen Arbor "open area" is located within the Sleeping Bear Dunes National Lakeshore, a federally-administered unit of the National Park System. There is attached hereto as Exhibit B a letter of Ivan D. Miller to the Commission, dated December 18, 1997, pointing out that commercial use of any area

¹The "Notice of Proposed Rulemaking" in Docket 97-41 is reported at 12 FCC Rcd 1268 (released January 31, 1997).

²No application at Glen Arbor was filed by a party calling itself "Arborland Broadcasting Company".

within the Sleeping Bear Dunes National Lakeshore (including location of an FM antenna) was prohibited.^{3 4}

4. The Commission's Audio Services Division wrote Flinn a letter dated November 19, 1988 (Exhibit C) giving Flinn 30 days in which to "specify a new transmitter site outside of the Sleeping Bear Dunes National Lakeshore". Flinn did amend his application on December 18, 1999, and specified a transmitter site south of Front Street in the village of Empire, Michigan, at NAD27 coordinates 44°48'39" North Latitude and 86°03'11" West Longitude. A depiction of the location of this transmitter site, prepared by the consulting radio engineering firm of Cohen, Dippell and Everist, P.C. is appended hereto as Exhibit D.

5. Flinn's proposal at the Empire site is fraught with multiple problems. First, so far as we can tell, Flinn has never obtained a "determination of no hazard to air

³Flinn's application (FCC Form 301, page 28), listed Duane Pearson as the contact person for his affirmative certification of "reasonable assurance" of the availability of his proposed site. Mr. Miller's letter identifies Duane Pearson as the Assistant Superintendent of Sleeping Bear Dunes National Lakeshore. At the very least, Flinn's site certification, which enabled him to file his application during the window ending July 24, 1997, was erroneous.

⁴Clearly, by failing to have had real "reasonable assurance" of the availability of a transmitter site as of the "A" cut-off date for Glen Arbor, as a matter of law Flinn was not entitled to amend, even during the "as of right" amendment period, to specify another site. His application should have been, and must now be, dismissed. **62 Broadcasting, Inc.**, 4 FCC Rcd 1768, ¶¶24-27 (Rev. Bd. 1989); quoted with approval in **Global Information Technologies, Inc.**, 12 FCC Rcd 11808, ¶3 (Commission, 1997).

navigation" from the Federal Aviation Administration. The Audio Services Division wrote a letter to Flinn's attorney on this subject on January 20, 1999, fifteen months ago (Exhibit E). Second, Flinn's proposed antenna height of 43 meters above average terrain does not permit his proposed station to deliver 70 dBu or better coverage to the Glen Arbor reference point⁵, let alone 80% or better of the community of Glen Arbor. This is because of the dunes and hilly terrain preclude line-of-sight between the Empire site and the center of the inhabited area of Glen Arbor (see Exhibit F). Third, the Empire site is short-spaced to both WKJF-FM and WBCM(FM), Channel 228C2, Boyne City, Michigan; although Flinn proposes to operate with 6.0 kilowatts of effective radiated power, under Section 73.215 of the Rules, his station would be eligible for a maximum power of 5.9 kilowatts. Fourth, the copy of the amendment obtained from the Commission does not contain an amended site certification.

6. WKJF needs the Commission to delete Channel 227A from Glen Arbor. Since the station's inception in 1961 when it was co-owned with WWTV(TV), Cadillac, Michigan, the station's antenna has been side-mounted on the WWTV(TV)

tower 9 miles southeast of Cadillac in northern Osceola County, Michigan. Because of the advent of digital television, the current owner of WWTV(TV) has strongly requested that WKJF-FM leave the WWTV(TV), so that its space can be used by WWTV-DT's antenna. Most recently, WWTV(TV) has asked WKJF-FM to leave by July, 2000.

7. WKJF has found a suitable parcel of land near Fife Lake, Michigan, at coordinates 44°35'41" North Latitude and 85°11'53" West Longitude, and is willing to downgrade from Class C to Class C1 to use it⁶. This site is 71.892 kilometers from the Empire site specified in Flinn's application as amended. Under Section 73.207(b)(1), 75 kilometers spacing is required between second-adjacent channel Class A and Class C1 stations—thus, there is a short-spacing of 3.108 kilometers. WKJF cannot avail itself of the lesser minimum spacings stated in Section 73.215(e) of the Rules, where 73 kilometers spacing is required between second-adjacent channel Class A and Class C1 stations—WKJF cannot utilize Section 73.215(e) because of a mere 1.108 kilometers.

⁵The Commission's web page for community coordinates (www.fcc.gov/mmb/asd/bickel/atlas2.html) shows the Glen Arbor reference point to be located at 44°53'50" North Latitude, 85°59'06" West Longitude.

⁶We have received FAA "determination of no hazard" for a 691 foot tower at this site, Aeronautical Study No. 99-AGL-3583-OE, April 4, 2000.

Legal Argument

8. The decision of the Policy and Rules Division, Mass Media Bureau, in ***FM Table of Allotments, La Fayette, Georgia***, 13 FCC Rcd 2093 (January 23, 1998) is controlling in this case and requires the deletion of Channel 227A from Glen Arbor. The record is clear that there are no fully spaced alternate sites or channels available for a Glen Arbor Channel 227A station that would meet FAA approval, and provide city-grade coverage to Glen Arbor. Clearly, had the proponent of the Channel 227A allocation been fully forthcoming with the Commission and informed it of the presence of the Sleeping Bear Dunes National Lakeshore, there is every reason to believe that the Commission would not have allotted this channel to Glen Arbor. ***La Fayette, Georgia, supra***; see also ***FM Table of Allotments, Sebring and Miami, Florida***, 10 FCC Rcd 6577 (1995); ***FM Table of Allotments, San Clemente, California***, 10 FCC Rcd 8291 (1995); ***FM Table of Allotments, Creswell, Oregon***, 4 FCC Rcd 7040 (1989); ***FM Table of Allotments, Atlantic City, New Jersey***, 50 Fed. Reg. 13791 (1985). At this juncture, the appropriate action is deletion of the channel. Cf. ***FM Table of Assignments, Pinckneyville, Illinois***, 41 RR 2d 69 (1977); ***FM Table of Allotments, San Clemente, California***, 10 FCC Rcd 8291 (1995); ***FM Table of Allotments, Atlantic City, New***

Jersey, 50 Fed. Reg. 13791 (1985). Deletion would make spectrum available for other FM services, such as the modified WKJF-FM facility described above. See *La Fayette, Georgia*, *supra*. There is no public interest benefit in retaining a defective allotment in the FM Table of Allotments that will not provide service to the public. *Id.*


9. Clearly, Channel 227A cannot be used to serve Glen Arbor in compliance with applicable Commission regulations, not now, not in the future. The public interest requires the deletion of Channel 227A from Glen Arbor, Michigan and the concomitant dismissal of the George S. Flinn, Jr. application there (File No. BPH-970724M4).

Conclusion

WHEREFORE, for all of the foregoing reasons, it is urged that this Petition for Rulemaking to Delete Channel BE GRANTED, and that the Commission ORDER THE AMENDMENT of Section 73.202(b) of the Rules TO EFFECTUATE THE DELETION of Channel 227A from Glen Arbor, Michigan.

Respectfully submitted,

WKJF RADIO, INC.

By 

Dennis J. Kelly
(D. C. Bar #292631)
Its Attorney

Law Office of Dennis J. Kelly
Post Office Box 6648
Annapolis, MD 21401
(202)293-2300 or (888)322-5291

April 24, 2000

EXHIBIT A

LAW OFFICES
HENRY E. CRAWFORD
SUITE 900
1150 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036
202-862-4395

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DEC 17 1996

TELECOPIER NUMBER
202-828-4130

INTERNET: crawlaw@wizard.net
Microsoft Network: crawlaw@msn.com

Federal Communications Commission
Office of Secretary

December 17, 1996

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re:


In the Matter of Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations Arborland Broadcasting Company Glen Arbor, Michigan MM Docket No.:
--

Dear Mr. Caton:

Transmitted herewith on behalf of Arborland Broadcasting Company are an original and four (4) copies of a "Petition for Rulemaking" as directed to the Allocations Branch.

Should any additional information be required, please contact this office.

Very truly yours,


Henry E. Crawford
Counsel for
Arborland Broadcasting
Company

cc: The Allocations Branch

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MMB

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

DEC 17 1996

Federal Communications Commission
Office of Secretary

In the Matter of) MM Docket No. _____
)
Amendment of Section 73.202(b)) RM No. _____
Table of Allotments)
FM Broadcast Stations)
Glen Arbor, Michigan)

To: The Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

Arborland Broadcasting Company ("Arborland Broadcasting"), by counsel, hereby petitions the Federal Communications Commission for the initiation of a rulemaking proceeding to amend the FM Table of Allotments, Section 73.202 of the Commission's Rules, to assign FM Channel 227A to the community of Glen Arbor, Michigan, as follows:

City	Present	Proposed
Glen Arbor, Michigan	238C2, 251C3	227A, 238C2, 251C3

1. As indicated in the attached Engineering Statement (attached hereto as Exhibit 1), Channel 227A can be assigned to Glen Arbor in complete compliance with the Commission's distance separation requirements as contained in 47 CFR §73.207. The reference coordinates: 44-50-02 N 86-02-02 W will show the 70dbu (city grade contour) entirely encompassing the city of Glen Arbor, Michigan. Moreover, there is a wide area available for placing an appropriate transmitter.

2. Glen Arbor is a city located in Leelanau County, Michigan. According to the 1990 Census, Glen Arbor has a population of 644 persons. Glen Arbor is located near Sleeping Bear Dunes Nations Lakeshore in northwestern Michigan. At present, the community is receiving community service from one FM station. Therefore, the public interest will be served by the assignment of Channel 227A to Glen Arbor, Michigan.

3. If the Commission assigns Channel 227A to Glen Arbor, Michigan, Arborland Broadcasting will apply for a construction permit and will construct a new facility upon award of that permit.

WHEREFORE, in accordance with the above, Arborland Broadcasting Company respectfully requests that Channel 227A be assigned to Glen Arbor, Michigan.

December 17, 1996

Law Offices of

Henry E. Crawford, Esq.
1150 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 862-4395

Respectfully Submitted,

Arborland Broadcasting
Company

By: 

Henry E. Crawford

Its Attorney

**Arborland Broadcasting Company
Petition for Rulemaking
December 17, 1996**

EXHIBIT 1

Glen Arbor MI

REFERENCE

44 50 02 N

86 02 02 W

CLASS = A

Current Spacings

DISPLAY DATES

DATA 11-29-96

SEARCH 12-06-96

Channel 227 - 93.3 MHz

Call	Channel	Location		Dist	Azi	FCC	Margin
WKJFFM LI	225C	Cadillac	MI	95.01	144.5	95.0	0.01
WBCM LI	228C2	Boyne City	MI	106.02	58.6	106.0	0.02
WKQZ LI	227C2	Midland	MI	189.80	124.7	166.0	23.80
WDORFM LI	230C1	Sturgeon Bay	WI	105.96	274.8	75.0	30.96
AD229 AD	229A	Harrietta	MI	67.35	156.7	31.0	36.35
WIMK LI	226C1	Iron Mountain	MI	191.84	305.7	133.0	58.84
WJZI LI	227B	Milwaukee	WI	245.29	218.3	178.0	67.29
WCLX LI	230C2	Mio	MI	133.03	94.5	55.0	78.03
WCMWFM LI	280C2	Harbor Springs	MI	110.73	48.8	15.0	95.73
WOZZ LI	228C2	New London	WI	201.94	261.8	106.0	95.94
WAUNFM LI	224A	Kewaunee	WI	128.70	253.6	31.0	97.70
AD281 AD	281A	Forestville	WI	113.54	262.6	10.0	103.54
AD281 AD	281A	Algoma	WI	114.02	257.6	10.0	104.02
WNBYFM LI	229A	Newberry	MI	169.43	13.7	31.0	138.43
AL225 AL	225B	Sault Ste Marie	ON	229.16	34.6	84.0	145.16
WWJR LI	229A	Sheboygan	WI	183.71	228.1	31.0	152.71

CERTIFICATE OF SERVICE

I, Henry E. Crawford, do hereby certify that copies of the foregoing
Petition for Rulemaking have been served by United States mail, postage
prepaid this 17th day of December, 1996 upon the following:

*Kathleen Scheuerle
Allocations Branch, Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W., 5th Floor
Washington, D.C. 20554

*Hand Delivered



Henry E. Crawford

LAW OFFICES
HENRY E. CRAWFORD
SUITE 900
1150 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036
202-862-4395

Email: crawlaw@wizard.net
Web: <http://www.wizard.net/~crawlaw>

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TELECOPIER NUMBER
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March 24, 1997

MAR 24 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 232
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re:


Amendment of Section 73.302(b) Table of Allocations, FM Broadcast Stations Glen Arbor, Michigan MM Docket No. 97-41, RM 8985

Dear Mr. Caton:

Transmitted herewith on behalf of Arborland Broadcasting Company are an original and four (4) copies of its "Comments of Arborland Broadcasting Company" as directed to the Chief, Allocations Branch.

Should any additional information be required, please contact this office.

Very truly yours,


Henry E. Crawford
Counsel for
Arborland Broadcasting Company

cc: John A. Karousos
Ms. Kathleen Scheuerle

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04

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

RECEIVED

MAR 24 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	MM Docket No. 97-41
)	
Amendment of Section 73.202(b))	RM-8985
Table of Allotments)	
FM Broadcast Stations)	
(Glen Arbor, Michigan))	

To: Chief, Allocations Branch

COMMENTS OF ARBORLAND BROADCASTING COMPANY

Arborland Broadcasting Company ("Arborland"), by counsel, in accordance with 47 CFR §§ 1.415 and 1.420, hereby submits its Comments in the above-captioned proceeding. In support thereof, Arborland states as follows:

1. On January 31, 1997, the Commission released a Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding in which it proposed the allotment of Channel 227A to Glen Arbor, Michigan as its third FM broadcast service.
2. Arborland supports the allotment of Channel 227A to Glen Arbor, Michigan for the reasons stated in the NPRM and also for the reasons stated by Arborland in its *Petition for Rulemaking*, which is hereby incorporated by reference.
3. If the Commission assigns Channel 227A to Glen Arbor, Michigan, Arborland will apply for a construction permit and will construct a new facility upon award of that permit.

WHEREFORE, in accordance with the above, Arborland Broadcasting Company respectfully requests that Channel 227A be assigned to Glen Arbor, Michigan as its third FM broadcast service.

March 24, 1997

Law Offices of
Henry E. Crawford, Esq.
1150 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 862-4395

Email: crawlaw@wizard.net
Web: <http://www.wizard.net/~crawlaw>

Respectfully Submitted,

Arborland Broadcasting Company

By:



Henry E. Crawford
Its Attorney

CERTIFICATE OF SERVICE

I, Henry E. Crawford, Esq., do hereby certify that copies of the foregoing
Comments of Arborland Broadcasting Company have been served by United
States mail, postage prepaid this 24th day of March, 1997 upon the following:

*John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

*Ms. Kathleen Scheuerle
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

*Hand Delivered


Henry E. Crawford, Esq.

EXHIBIT B



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Sleeping Bear Dunes National Lakeshore
9922 Front St. (Hwy M-72)
Empire, Michigan 49630-6797

DEC 18 1997

A3815(SLBE)

Office of the Secretary
Federal Communications Commission
1919 M Street N. W.
Washington, D. C. 20554

Dear Mr. Secretary:

This is our notice of objection for the Application for FM Construction Permit, Channel 227A, at Glen Arbor, Michigan. This application was prepared for George S. Flinn, Jr., July 1997, by D. C. Williams of Carson City, Nevada. Your application file is 970724M4.

This application would place an fm tower within Sleeping Bear Dunes National Lakeshore, a unit of the National Park System. Such commercial use of these federal property is not allowed. Congress has directed this area be preserved and managed for its natural and cultural resources.

The application indicates under Section VII Certifications, item 3, that contact was made with National Lakeshore representative Duane Pearson. Assistant Superintendent Pearson's comments to the applicant's representative were that while an application might be filed, the National Park Service would be opposed to any such construction. That conversation has been misconstrued to imply that placement of a transmitter antenna would be allowed in this highly visible portion of the Lakeshore. This is not the case.

Please place this objection within your file, and contact me if you need further information at (816)328-5134.

Thank you for your assistance.

Sincerely,

Ivan D. Miller
Superintendent

EXHIBIT C

RECEIVED

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW
WASHINGTON DC 20554

DEC 18 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MASS MEDIA BUREAU
AUDIO SERVICES DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mmb/asd/

PROCESSING ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2720
FACSIMILE: (202) 418-1410
MAIL STOP: 180083
INTERNET ADDRESS: dbickel@fcc.gov

November 19, 1998

Mr. Stephen C. Simpson
Suite 800
1090 Vermont Avenue
Washington, D.C. 20005

In re: NEW; Glen Arbor, MI
George S. Flynn, Jr.
BPH-970724M4

Dear Mr. Simpson:

This letter is in reference to the application of Mr. George S. Flynn, Jr. for a new commercial station on 93.3 MHz in Glen Arbor, MI.

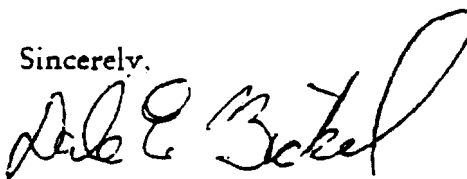
The application indicates that the transmitter site is located within the boundaries of the Sleeping Bear Dunes National Lakeshore, and Section VII of the application indicated that "reasonable assurance" of the use of that site was given by a Duane Pearson. However, by facsimile received December 18, 1997 (copy attached), the National Park Service stated that the Park Service is opposed to any transmitter site within the Sleeping Bear Dunes National Lakeshore. Thus Mr. Flynn cannot build his station at the location specified in the application. Mr. Flynn must amend his application to specify a new transmitter site outside of the Sleeping Bear Dunes National Lakeshore.

Pursuant to 47 C.F.R. § 73.3522(a)(6), "...an applicant whose application is found to meet the minimum filing requirements but nevertheless is not complete and acceptable shall have the opportunity in the 30-day period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, 47 C.F.R. § 73.356+(a) states that, "[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for corrective amendment." See Appendix B in the Report and Order

in MM Docket No. 91-347, 7 FCC Rcd 5074, 57 Fed. Reg. 34872, released July 27, 1992.
This letter constitutes your opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3522(a)(6).

Further action will be withheld for a period of 30 days from the date of this letter to allow Mr. Flynn to locate a new transmitter site and file an amendment to application BPH-970724M4. Failure to respond in this time period will result in the application being dismissed for failure to prosecute pursuant to 47 CFR 73.3568(b). Please note that any amendment must be submitted in triplicate, and that one copy must contain an original signature from the applicant. The amendment should be directed to the Office of the Secretary (1800B3), FCC, Washington, D.C. 20554.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale E. Bickel". The signature is fluid and cursive, with a large loop at the end of the last name.

Dale E. Bickel
Senior Electronics Engineer
Audio Services Division
Mass Media Bureau

cc: Mr. George S. Flynn, Jr.
Mr. D.C. Williams
Mr. Ivan D. Miller, Superintendent, National Park Service

EXHIBIT D

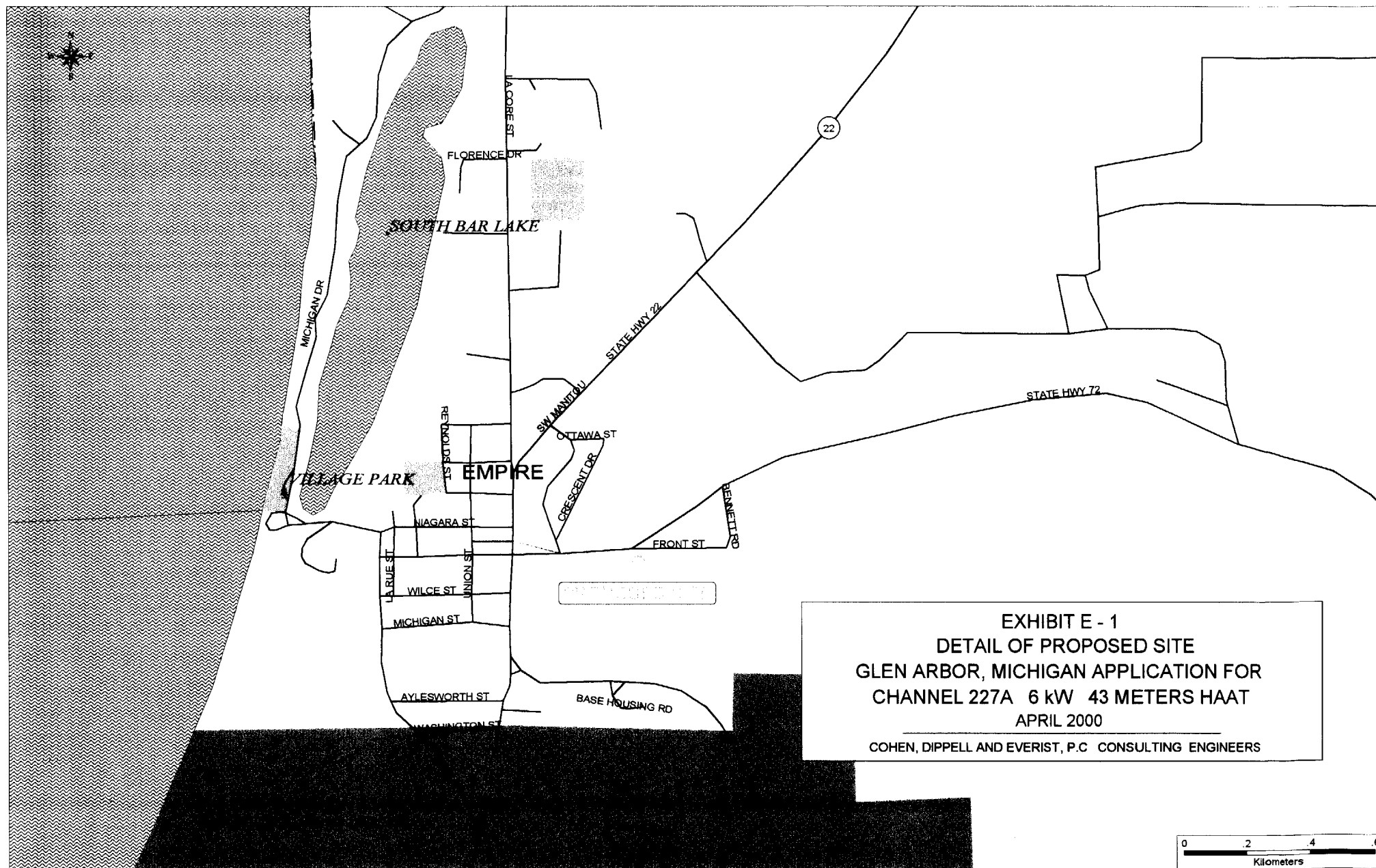


EXHIBIT E

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW
WASHINGTON DC 20554

MASS MEDIA BUREAU
AUDIO SERVICES DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mmb/asd/

PROCESSING ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2720
FACSIMILE: (202) 418-1410
MAIL STOP: 1800B3
INTERNET ADDRESS: dbickel@fcc.gov

January 20, 1999

Mr. Stephen C. Simpson
Suite 800
1090 Vermont Ave. NW
Washington, DC 20005

In re: NEW, Glen Arbor, MI
George S. Flinn, Jr.
BPH-970724M4

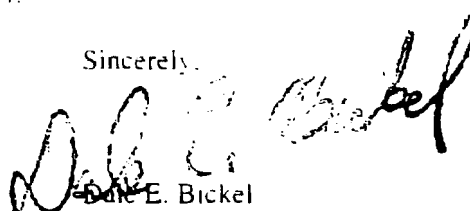
Dear Mr. Simpson:

In response to my letter dated November 19, 1998, you submitted an amendment on December 18, 1998 to change the transmitter site specified in this application to eliminate the use of a transmitter site within the Sleeping Bear Dunes National Lakeshore. This amendment has been reviewed and is acceptable for filing.

However, we have not yet received FAA clearance for the proposed 66 meter tower. Your amendment indicates that FAA approval was being concurrently requested with the submission of the amendment, but apparently the FAA has not yet made its determination on the proposed structure. We request that once FAA approval is secured, that a copy of the FAA's determination be submitted along with an application to register the proposed antenna structure on FCC Form 854. This registration is necessary before the FM construction permit application can be approved. I have enclosed a copy of FCC Form 854 with relevant information for your convenience.

When FCC Form 854 is submitted to the Commission, please advise the Audio Services Division by letter of that registration application filing so that we may expedite the registration process. If the Form 854 application cannot be filed before April 20, 1999, please so advise by letter submitted as an amendment to application BPH-970724M4.

Sincerely,



Dale E. Bickel
Senior Electronics Engineer
Audio Services Division
Mass Media Bureau

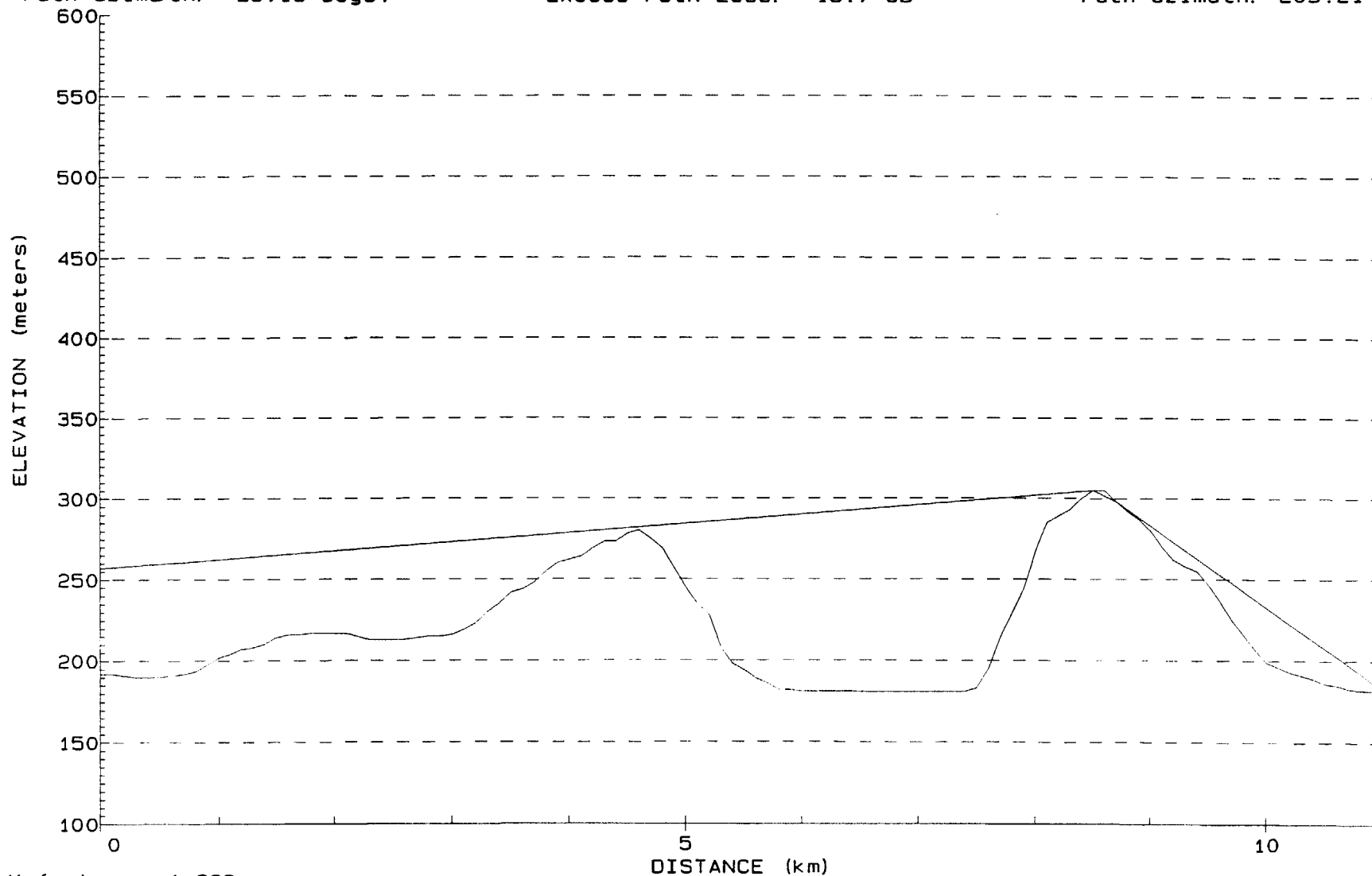
cc: Mr. George S. Flynn, Jr.

EXHIBIT F

Site: GLEN ARBOR SITE
N 44 48 39 W 86 3 11
Ant. Elev. (AMSL): 257.0 m
Path azimuth: 29.16 degs.

Frequency: 93.3 MHz
Path Length: 11.0 km
Total Path Loss: 111.4 dB
Excess Path Loss: 18.7 dB

Site: GLEN ARBOR CITY
N 44 53 50 W 85 59 6
Ant. Elev. (AMSL): 182.5 m
Path azimuth: 209.21 degs.



K factor: 1.333

3 Second Database - NAD 27

Rain loss: .0 dB

Urban loss: .0 dB

Foliage loss: .0 dB

EXHIBIT E - 3

COHEN, DIPPELL & EVERIST
Consulting Engineers
WASHINGTON, D.C.

Application BPH-970724M4
George S. Flinn

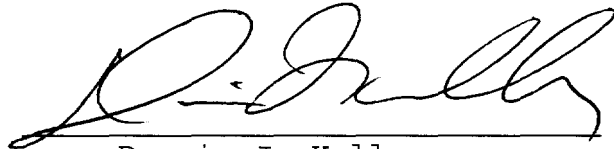
TERRAIN PROFILE

APRIL 2000

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing "Petition for Rulemaking to Delete Channel" were served by first-class United States mail, postage prepaid, on the 24th day of April, 2000, upon the following:

Stephen C. Simpson, Esquire
Law Office of Stephen C. Simpson
1090 Vermont Avenue, N. W., Suite 800
Washington, DC 20005
Counsel for George S. Flinn, Jr.

A handwritten signature in black ink, appearing to read "D. J. Kelly", written over a horizontal line.

Dennis J. Kelly